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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09 551,256	04 18 2000	Steven P. Georgis	19930-000200US	1759

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EXAMINER

SMITH, ZANDRA V

ART UNIT	PAPER NUMBER
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2877

DATE MAILED: 10/22/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Examiner

Art Unit

Zandra V. Smith

2877

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- A reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☐ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 18-27 is/are allowed.
- 6) ☒ Claim(s) 1, 3, 4, 6, 7, 9 and 13 is/are rejected.
- 7) ☒ Claim(s) 2, 5, 8, 10-12 and 14-17 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
\* approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
3. ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_
4. ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Other

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless

(1) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1, 3, 4, 6-7, 13 are rejected under 35 U.S.C. 102(e) as being anticipated by *Xu et al.* (6,404,492)

As to **claims 1 and 3**, Xu discloses a light source apparatus and measurement method, comprising,

during a first time interval, separating a first spectral band of a plurality of spectral bands,

directing the first spectral band to a photodetector while preventing the spectral bands in the plurality of spectral bands other than the first spectral band from reaching the photodetector, and

generating with a wavelength monitoring circuit a first signal representing a characteristic of a modulated or un-modulated pattern of light in the spectral band, and

repeating the steps during a second and subsequent time interval(s) (col. 5, lines 1-20, lines 27-31, col. 6, lines 40-45, and col. 7, lines 20-25).

As to **claims 4 and 7**, Xu discloses everything claimed, as applied above, in addition the signals represent optical power levels (col. 7, lines 20-25).

As to **claim 6**, Xu discloses a light source apparatus and measurement method, comprising:

an optical train;

a photodetector;

a routing mechanism;

an electrical circuit coupled to the photodetector; and

an a control circuit coupled to the routing mechanism to cause only a first selected spectral band to be directed to the photodetector during a first time interval and to cause only a second spectral band to be directed to the photodetector during a second time interval (col. 5, lines 1-20, lines 27-31, col. 6, lines 40-45, and col. 7, lines 20-25).

As to **claim 13**, Xu discloses everything claimed, as applied above, in addition the optical train includes a dispersive element (4, col. 5, line 28).

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over *Xu et al.*  
(6,404,492)

As to **claim 9**, Xu discloses everything claimed, as applied above, in addition the control circuit caused the routing mechanism to select each of the plurality of wavelengths sequentially (col. 7, lines 1-25). Xu differs in that spectral bands are not specifically selected in a round-robin fashion, however since wavelengths are sequentially varied and since a round-robin fashion would arrange the signals in a cycle to ensure that only one signal is received by the detector, it would have been obvious to one having ordinary skill in the art at the time of invention to send the signals in a round-robin fashion.

*Allowable Subject Matter*

Claims 18-27 are allowable over the prior art of record

Claims 2, 5, 8, 10-12, and 14-17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: the prior art of record, taken alone or in combination, fails to disclose or render obvious generating, during a first time interval a signal representing the combined optical power of the spectral bands other than the first spectral band, SONET frames, a plurality of dynamically routing elements controlled to direct the spectral bands during specified time periods

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure

***Klinger et al. (6,191,860)*** disclose an optical shutter spectrometer

***Response to Arguments***

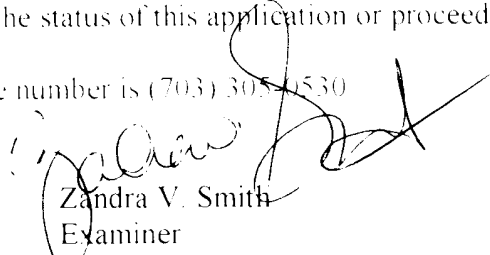
Applicant's arguments with respect to claims 1-17 have been considered but are moot in view of the new ground(s) of rejection

***Fax/Telephone Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Zandra V. Smith whose telephone number is (703) 305-7776. The examiner can normally be reached on 8:00 a.m. - 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Frank G. Font can be reached on (703) 308-4881. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7722 for regular communications and (703) 308-7722 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-0530.

  
Zandra V. Smith  
Examiner  
Art Unit 2877

October 16, 2002